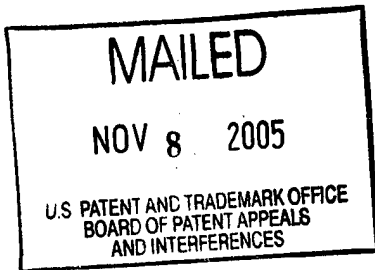


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte DWIGHT ALLEN MERRIMAN
and KEVIN JOSEPH O'CONNOR

Application 09/577,798

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 2, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Information Disclosure Statement (IDS) was filed April 4, 2001 and April 24, 2002. It is not apparent from the record that the examiner considered the statements submitted nor notified applicants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Application 09/577,798

Further, the reference listed below, relied on by the examiner in the Examiner's Answer filed February 9, 2004, listed under "Prior Art of Record", has not been scanned into the file.

Christopher Buckingham Deposition

Accordingly, it is

ORDERED that the application is being electronically returned to the Examiner for such consideration of the Information Disclosure Statement, to have the reference listed above scanned into the file, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

CRAIG FEINBERG
Program and Resource Administrator
(571) 272-9797

GJH

cc: KENYON AND KENYON
ONE BROADWAY
NEW YORK, NY 10004